

To: Dorr, Kaelan K. EOP/WHO; **Ex. 6 - Personal Privacy**; Bowman, Liz[Bowman.Liz@epa.gov]; Konkus, John[konkus.john@epa.gov]
From: Freire, JP
Sent: Fri 5/12/2017 12:17:57 PM
Subject: RE: The Hill: EPA, mining firm settle dispute over controversial Alaska project

Here you go.

Release and talkers below.

- [REDACTED] The U.S. Environmental Protection Agency entered into a settlement agreement with the Pebble Limited Partnership to resolve litigation from 2014 relating to EPA's prior work in the Bristol Bay watershed in Alaska.
- [REDACTED] The settlement provides the Pebble Limited Partnership (Pebble) an opportunity to apply for a Clean Water Act (CWA) permit from the U.S. Army Corps of Engineers before EPA may move forward with its CWA process to specify limits on the disposal of certain material in connection with the potential "Pebble Mine."
- [REDACTED] We are committed to due process and the rule of law, and regulations that are 'regular.'
- [REDACTED] We understand how much the community cares about this issue, with passionate advocates on all sides.
- [REDACTED] The agreement will not guarantee or prejudge a particular outcome, but will provide Pebble a fair process for their permit application and help steer EPA away from costly and time-consuming litigation. We are committed to listening to all voices as this process unfolds.
- [REDACTED] The settlement does not guarantee or prejudge any particular outcome to this process, but does ensure that the process will be carried out in a fair, transparent, deliberate, and regular way.

Key terms of the settlement:

- Pebble and the U.S. Department of Justice (on behalf of the EPA) will ask the U.S. District Court for the District of Alaska to dismiss the cases with prejudice and to lift the court-ordered preliminary injunction.

- EPA agrees to commence a process to propose to withdraw the currently pending proposed determination, consistent with its regulations.
- EPA agrees that it will not move to the next step in its CWA process, which would be to issue a recommended determination (determination steps are: proposed, recommended, final), until 48 months from settlement or until the U.S. Army Corps of Engineers issues its final environmental impact statement, whichever comes first. To take advantage of this period of forbearance, Pebble would have to file its permit application within 30 months.
- Pebble will drop its lawsuits and requests for fees against EPA, and agree to file no new Freedom of Information Act (FOIA) requests during the pendency of the "forbearance" period.
- EPA may use its scientific assessment regarding the Bristol Bay Watershed without limitation.

CONTACT:

press@epa.gov

FOR IMMEDIATE RELEASE

May 12, 2017

EPA and Pebble Limited Partnership Reach Settlement Agreement

EPA Agrees to Allow Permit Process to Proceed; Pebble Agrees to Drop Lawsuits

WASHINGTON --The U.S. Environmental Protection Agency entered into a settlement agreement with the Pebble Limited Partnership to resolve litigation from 2014 relating to EPA's prior work in the Bristol Bay watershed in Alaska. The settlement provides the Pebble Limited Partnership (Pebble) an opportunity to apply for a Clean Water Act (CWA) permit from the U.S. Army Corps of Engineers before EPA may move forward with its CWA process to specify limits on the disposal of certain material in connection with the potential "Pebble Mine."

"We are committed to due process and the rule of law, and regulations that are 'regular'," said EPA Administrator Scott Pruitt. "We understand how much the community cares about this issue, with passionate advocates on all sides. The agreement will not guarantee or prejudge a particular outcome, but will provide Pebble a fair process for their permit application and help steer EPA away from costly and time-consuming litigation. We are committed to listening to all voices as this process unfolds."

Key Terms of the Settlement:

- Pebble and the U.S. Department of Justice (on behalf of the EPA) will ask the U.S. District Court for the District of Alaska to dismiss the cases with prejudice and to lift the court-ordered preliminary injunction.
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- Pebble will drop its lawsuits and requests for fees against EPA, and agree to file no new Freedom of Information Act (FOIA) requests during the pendency of the "forbearance" period.
- EPA may use its scientific assessment regarding the Bristol Bay Watershed without limitation.

Background:

In 2014, under the previous administration, EPA's Region 10 completed a multi-year watershed assessment in Bristol Bay, and then issued a CWA Section 404(c) proposed determination, which described restrictions on large-scale mining in the watershed. Section 404 is the part of the CWA that governs the permit evaluation process for actions that discharge dredged or fill material into a covered water.

The May 11, 2017 settlement does not guarantee or prejudice any particular outcome to this process, but does ensure that the process will be carried out in a fair, transparent, deliberate, and regular way.

R082

If you would rather not receive future communications from Environmental Protection Agency, let us know by clicking [here](#).
Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

From: Love, Kelly A. EOP/WHO [Ex. 6 - Personal Privacy]
Sent: Friday, May 12, 2017 8:08 AM
To: Shah, Raj S. EOP/WHO [Ex. 6 - Personal Privacy] Freire, JP <Freire.JP@epa.gov>
Cc: Dorr, Kaelan K. EOP/WHO [Ex. 6 - Personal Privacy] Rateike, Bradley A. EOP/WHO [Ex. 6 - Personal Privacy] Kennedy, Adam R. EOP/WHO [Ex. 6 - Personal Privacy]
Subject: Re: The Hill: EPA, mining firm settle dispute over controversial Alaska project

Looping in JP

Sent from my iPhone

On May 12, 2017, at 8:05 AM, Shah, Raj S. EOP/WHO [Ex. 6 - Personal Privacy] wrote:

Can we get some talkers on this?

Sent from my iPhone

Begin forwarded message:

From: Comms Alert <CommsAlert@gop.com>
Date: May 12, 2017 at 8:00:34 AM EDT
To: Undisclosed recipients;;
Subject: The Hill: EPA, mining firm settle dispute over controversial Alaska project

EPA, mining firm settle dispute over controversial Alaska project

The Hill

Devin Henry

May 12, 2017 – 7:53 AM

<http://thehill.com/policy/energy-environment/333077-epa-mining-firm-settle-dispute-over-controversial-alaska-project>

President Trump's Environmental Protection Agency (EPA) has revived a controversial proposed Alaska mining project previously blocked by Obama administration regulators.

The EPA and a mining firm on Friday announced a settlement in their legal dispute over the proposed Pebble Mine near Bristol Bay in southwest Alaska, setting the stage for an eventual permitting decision that could allow the project to move forward.

Mine developer Pebble Limited Partnership sued the EPA in 2014 over the agency's decision to block the mine on environmental and tribal sovereignty grounds before the company had submitted its permit applications.

That decision ignited a legal dispute between the agency and Pebble Limited, as well as congressional probes into the validity of the EPA's action.

Republicans accused the agency of bias and improper consultation with the mine's opponents. But the EPA's Office of Inspector General reported last year that it found "no evidence of bias in how the EPA conducted the assessment" for the proposed mine, nor "that the EPA predetermined the outcome" of the project.

Under the terms of the settlement announced Friday, the EPA will withdraw its proposed rejection of the mine and Pebble will be able to file permit applications for it.

The EPA will not issue a recommendation on the mine until the Army Corps of Engineers issues a final environmental impact statement for the project.

The lack of both an environmental assessment and the permit applications mean mining at Bristol Bay is still years away. But the mine's developers celebrated Friday's decision as the end of an "unfortunate saga."

"We've asked for nothing more than fairness and due process under the law – the right to propose a development plan for Pebble and have it assessed against the robust environmental regulations and rigorous permitting requirements enforced in Alaska and the United States," said Ron Thiessen, the CEO of Pebble Partnership's parent company.

"Today's settlement gives us precisely that, the same treatment every developer and investor in a stable, first world country should expect."

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